

WEEKS WINGS FROM EXPERT KINSLEY THE ADMISSION THAT HE IS NOT INFALLIBLE IN DECLARATIONS OF MOLINEUX'S GUILT.



Repeats His Opinion, However, and Says He Examined the Handwritings of Many Persons.

THE defence in the trial of Roland Molineux gave yesterday the first "touch of its quality." Opportunity came to the defendant's senior counsel, Bartow S. Weeks, to cross-examine Expert Kinsley, who has consumed the better part of several days in presentation of the proofs in handwriting, on behalf of the prosecution. Before beginning his own course of interrogation, Mr. Weeks, in an unguarded moment and with some touch of sarcasm, asked one question which precipitated upon him four hours more of direct testimony.

"So," he said, "you have now given all your reasons for believing that the defendant wrote the address on the poison package?"

And Kinsley said no. The time it took to get the rest of the expert's reasons may, however, prove ultimately to have been time well spent, for the last shot in Mr. Kinsley's locker is gone, and his admission of the fact is on the records of the court.

LAWYER WEEKS'S CONFIDENT AIR.

The confidence which such a state of things was bound to inspire was apparent in Mr. Weeks's demeanor and method from the beginning. It seemed in some way to be imparted to the defendant, too. He has listened day after day through a fortnight to testimony which in the very nature of things must be adverse, and testimony, too, which offered small hope of reprieve or reprisal.

The cross-examination of Kinsley was practically an offensive movement, and Molineux's face wore an expression of something akin to comfort as he heard the admission forced from the man by whom the prosecution has set so much store that he never marked for identification the writings submitted to him that he "did not know" or "could not remember" certain facts connected with his service to the State, which in the plan of defence will be dwelt upon, by and by, with fierce certitude. It was doubtless this sense of future utility which made the cross-examination of Kinsley a thing of joy to Molineux, for he knows his own case. He has studied the theory and possibilities of defence as closely as his lawyers have since the first faint shadow of suspicion fell upon him.

He certainly saw with all clarity what was so thinly cloaked in Mr. Weeks's first hour of cross-questioning, the preliminary steps of the final undertaking—that of shifting the lights so that he the prisoner at the bar, should be in the radiance again and some other man in the shadow.

The prospect pleased him. His face bore witness to it. The nasty confession of Hellas, the halting, unwilling, but in its essentials truthful, story of Mamie Melando, were for the moment forgotten.

INTIMATION OF THE DEFENCE.

In the dead set his counsel made at the intent which underlay the first selection of scraps of handwriting for submission to the expert in the intimation, hardly hidden in the questions, that some selfish influence had pointed the agents of the law in his direction, he saw the first dawn of his day of vindication. It was not strange that his smile of satisfaction grew as such a day drew near to its close.

Osborne, pending the effort of Mr. Weeks to discredit and undo the expert, has chosen silence for his part. All through the house of attack upon his fabric he sat poring over his books, like one waiting his turn in a barber shop. Not half a dozen times, all told, did he break the thread of Weeks's questioning, and then only to say in a paternal tone, which was bitter as gall from its very unconsciousness, "Be fair, Mr. Weeks, be fair."

As for Kinsley, he bears it well. Face to face with two of the most astute and combative lawyers at the New York bar, and what is worse, with an expert in his own science, who has no novices in many courts, and who, lynx-eyed, has watched him and listened to him for days, Kinsley has kept his wits, and, save under extreme aggravation, his New England temper. What is to be his peace of mind later on, to-day will tell.

Recorder Goff had as guests upon the bench during a part of the afternoon session, Justice Werner and Former Lieutenant-governor Charles Saxton, now Presiding Judge of the Court of Claims.

WEEKS UNWITTINGLY BRINGS OUT POINTS.

Asks Kinsley Whether He Told All, and Is Astonished by the Answer That He Had Not.

"I saw Mr. Kinsley here," said Mr. Osborne, looking out into the crowd beyond the railing, after the Recorder had made his bow and the roll of the jury had been called.

The rascally Jerseyman had already taken a seat in the corner near the witness chair and mounted the stand briskly.

The expert was requested to enter upon a summary of the testimony he has been giving intermittently for five days. Mr. Osborne called for a reiteration of the comparison between the address on the poison package and Exhibits E and D, which are known respectively as the Barnet and Cornish letters.

Dispute Over Memoranda.

Mr. Osborne here requested the witness to make his comments from a memorandum he held in his hands. This brought out an objection from Mr. Weeks, and a lengthy rift ensued between the defendant's lawyer and the assistant District Attorney. Mr. Weeks argued that an expert witness could not refresh his memory from a memorandum embodying conclusions that he had drawn during his testimony.

The Recorder upheld the District Attorney, and Mr. Kinsley was permitted to testify from the memorandum. Mr. Kinsley continued, saying: "All through the admitted handwriting the writing runs up hill; that is, it leaves the imaginary base line. This habit is followed in the disputed handwriting. In both writings also is to be found the triangular method of making a word."

JURYMAN BREAKS IN.

Juryman Billings broke into the summary at this juncture, and wanted to know whether he had determined that Molineux had written the disputed handwriting by the internal evidences of the letters or by outside evidences of his alleged guilt.

"I picked him out by the internal evidences from hundreds of specimens of handwriting," Mr. Osborne stated that he had finished with the witness.

"You have finished, have you not?" he asked of the expert.

"Yes," said Mr. Kinsley. Mr. Weeks's face had come. Expert Kinsley had practically declared his belief in Molineux's guilt. He had sworn under oath that his opinion was that Molineux wrote the address on the poison package. It was now Weeks's task to

destroy this impression in the minds of the jury. He arose and said: "You say, do you Mr. Kinsley, that you have given all the reasons for your belief. You are not able to think of any other reason why you think this defendant wrote the address on the poison package?"

Mr. Kinsley's answer was a rude shock to Mr. Weeks, for he answered: "I know of other reasons."

"Then why," said Mr. Weeks, bitterly, "did you say that you were through?"

"I said that I had finished."

"Why did you not give the jury these other reasons?"

"I thought I had said enough, and I did not want to tire the jury."

"Mr. Kinsley had dashed around to the blackboard, and was bent on illustrating the omitted reasons, Mr. Weeks did not want him to do so."

"Never mind," said Mr. Weeks, "you need not write, just answer my questions."

Mr. Weeks galled himself out of the hole by "letting go," replied the witness, coming back from another direction. He said:

"Mr. Witness, I ask you if you have given all your reasons for stating that the defendant wrote this writing?"

"My reasons were, first, that I had given sufficient testimony; second, that I wanted to save time and third, I did not want to tire the jury further."

WITNESS OBJECTS.

"Then when you said you were through you were not through. Is that right?"

"I object to the question," said Expert Kinsley, hotly. It intimates that I did not tell the truth."

"Oh, no," said Mr. Weeks, "that is not right."

"Then I beg your pardon."

"I accept your apologies," sneered the lawyer.

"Well, now," pressed Mr. Weeks, "if you have not given all your reasons, tell me how many did you omit?"

"Let me see," replied the witness, counting, "one, two, three, four—yes, four, sir."

"What are they?"

"First, the 'D' in some of the letters."

"In what exhibit?"

"In exhibit D."

Mr. Weeks looked at the exhibit and failed to find the "D" written as Mr. Kinsley described it. He called the witness's attention to it, and Mr. Kinsley admitted that he was mistaken; that he meant exhibit B.

"You trumpeted Mr. Weeks," then you confess you are mistaken," Mr. Weeks looked at the jury as he said this.

Mr. Osborne was on his feet in an effort to destroy this point before the jury.

"I beg," said Mr. Weeks, "that the court will save me from interruptions at the hands of the District Attorney."

"Aw, don't get angry," said Mr. Osborne.

"I'm not," replied the lawyer. "But I insist that I be allowed to examine this witness in my own way, and that in some way the District Attorney be suppressed."

"It is very evident," said Mr. Osborne, "that you want to make the witness answer your way and not his way."

"I appeal to the court."

STROKES UNDER A "D."

The Recorder told Mr. Osborne mildly to suppress himself. Mr. Osborne sat down.

Mr. Kinsley continued with his description of the formation of the letter "d" in "42d," which he said in certain letters had two strokes under it, in certain others one stroke and in certain others no stroke at all. This characteristic was found in the admitted and disputed handwriting.

"You found this peculiarity in writing of the witness you witnessed in what you call the 'requested writing'?"

"He wrote from typewritten copy, did he not?"

"Yes."

"Is there anything on a typewriter which will indicate a dash under a word?"

"The argument on a typewriter can be so manipulated as to do it," said the expert.

"You also admitted that you received these impressions as to handwriting while you were receiving \$25 a day, did you not?"

"I did not say anything about it. As far as that is concerned, I have gotten \$100 for a day's work."

EXPERT ADMITS HE IS NOT INFALLIBLE.

Kinsley, Nevertheless Avers He Is Sure of His Conclusions About Molineux's Handwriting.

AT the resumption of business in the afternoon Mr. Weeks contrived the fortification of books, documents and hand writing exhibits, then, standing up, squared his shoulders, cleared his throat, and, taking careful aim, renewed his fusillade of questions at the expert. Mr. Carnyath, armed with a big, black-bound magnifying glass, sat close at the lawyer's elbow, studied the exhibits, and from time to time suggested pungent interrogatories.

Mr. Weeks was still engaged in getting from the witness all the points of similarity upon which he based his conclusion, such as had not been set forth in the direct examination. Coming to the different ways of making a "cross," Kinsley said, pointing to the handwriting of the defendant, that the defendant and the author of the Cornish-Barnet letters, four different crossings of the "x."

"These dissimilarities," he said, "were an other reason for his conclusion that the defendant wrote the poison medicine letters as well as the address upon the poison package."

"Have you any opinion as to what sort of pen was used in writing this exhibit?" asked Mr. Weeks, holding up one of the patient medicine epistles.

"I think it was a medium fine pen."

"Not a stub?"

Gotham Play To-night, Work To-morrow.

Lackawanna's new trap in service Dec. 17, leaves New York 11:45 P. M., reaching Buffalo 11:20 A. M., Scranton 4:45 A. M., Oswego 11:50 A. M., Binghamton 5:40 A. M., Elmira 7:00 A. M.,

"No, not a stub."

"How was it held, in your opinion?"

PEN HELD SIDEWISE.

Looking at the writing before him, the expert said:

"I think the pen was held sideways, and it looks as though the holder pointed to the right, away from the body."

"Do not use people," he asked, "make the capital S in different ways at different times?"

"No," answered Kinsley, "most people have one set of capitals, which they stick to."

When asked if he had ever found the capital S in any of the Molineux writings outside of those which appeared in evidence, he said:

"I never saw in the defendant's natural handwriting is in that book, excepting some that Mr. Carnyath had and showed to me last spring."

This statement was destined to recoil upon the expert before the afternoon's ordeal was over and force him to another confession of his fallibility.

In the giving of his direct testimony, Kinsley had laid some stress upon the fact that in the transcript of the Harpers' letters, which Molineux wrote at detention, the cross mark appeared before the street number instead of the letters "No."

"This bit of expert evidence Weeks disposed of at a single stroke."

"I think you testified," he said, "that the number mark was put on in a cross-hatch of four lines in the typewritten copy which was made and given to the defendant to write from. Kinsley blushed and said:

"The import of this was that the appearance of the number mark in the transcript should not be raised by the jury as evidence with the defendant. It was so with the writer of the Harpers and Barnet letters."

Kinsley was put through a desperate course of sports in regard to his drawing any part of his conclusion from the crossing of the small x, which he said varied as widely as did the crossing of the "x." Mr. Weeks forced him to go through, one after another, the exhibits to which Molineux's name was signed, and define the nature of x cross that he found there. This process developed a dissimilarity even greater than that found in the letters, and the expert asked sharply:

"If you had forty handwritings and the crossing of the x was dissimilar in them all as it is in these, did you not?"

"Yes, there was a pause and again he answered "No."

"Well, what would you do? Anything?"

EXPERT NONPLUSED.

The pause was longer. Mr. Kinsley's face was as red as one of the rose combs on his renowned Mynors, so plaintively referred to by the defendant's counsel, as he answered:

"I would throw up my hands. But," he continued, "you stop in the middle of my reasoning. What we find here is not the crossing of a cross, Kinsley said, pointing to the five kinds of x crossings that we do find in the handwriting of the defendant are the same five kinds that we find in the disputed writings."

"All right," said Mr. Weeks, getting away from the subject. "Take Exhibit 1 and compare it with Exhibit 2. You find that the handwriting of the Harpers letters made with your selected pens and your selected ink, in your office, upon your paper."

"Yes," said Kinsley, laughing. "I do not deny it."

"You are very philanthropic," said the lawyer. "Do you not?"

"I don't think so," retorted Kinsley. "I am not a philanthropist. What I maintain is that the five kinds of x crossings that we do find in the handwriting of the defendant are the same five kinds that we find in the disputed writings."

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letters," answered Kinsley, "which Mr. Osborne slipped in the direct examination, but I would not have had it to determine which they were without expending some time on the subject."

"So," said the lawyer, "that is all the reason you have for believing that Exhibit A (the address on the poison package) was written by the defendant?"

"Practically all."

A SHARP RETORT.

"Now you are satisfied, are you, that I wanted to get out all the information you had?"

"No, I never thought, and don't think now, that you wanted it at all. I think you just said so because you had to."

Kinsley was getting now warm along this line to be handled without any further delay, he said:

"Now," said Weeks, "one reason that you gave for believing that the defendant wrote the disputed documents is that he did not date his letters. Is that so?"

"And what you have now told is all that you have to support your belief?"

"Do you consider what you have told here sufficient to fix that shadow upon this defendant's belief?"

"I am not infallible."

"Oh, you are not infallible? You may be mistaken? Then there is room for the shadow of a doubt."

"I didn't say I might be mistaken. I said I was not infallible."

"Was there not room for doubt? Yes, or no?"

Kinsley halted a moment, and looking straight at the lawyer, answered:

"No."

Weeks threw up both hands, closed the book of exhibits and began the cross-examination, cursing the war, as it were, into the expert's own country.

KINSLEY KEPT NO RECORD OF HIS WORK.

Examined Many Kinds of Handwriting, but Failed to Mark Them for Identification.

HAVING gone thoroughly some days ago into the question of Mr. Kinsley's qualification as an expert, Mr. Weeks now took up from its very beginning Kinsley's connection with the case.

"When," he asked, "did you first see Exhibit A, and where?"

"At my house in Elizabeth, N. J., on Sunday, January 1, 1899, at about 4 o'clock in the afternoon."

"Who brought it?"

"Detective Sergeant McCafferty."

"What did he do with it?"

"Five scraps of writing."

"Are any of those pieces now in evidence in this case?"

"I do not remember."

"Didn't you have any memoranda of the pieces submitted to you at that time?"

"No."

"Were there any writings of the defendant among them?"

"Yes."

"Any that are in evidence here?"

"Kinsley was confident in his reply, and the lawyer asked for more."

"Mr. Kinsley, you have been a witness before. You know the duty of a witness upon cross-examination is to return categorical answers to the questions asked him and not to counter information."

"Oh," said Osborne, rising from his chair, "so this has now developed into an essay upon memory."

"I know," said Kinsley. "It is the duty of a witness to take everything that a lawyer says, and not answer anything back; but sometimes it is very unpleasant."

"But you said two minutes ago," said Mr. Weeks, not heeding the retorts, "that all the handwritings of this defendant that you had ever examined were in this book. Just now you said that one specimen of his handwriting was among those brought to you on the first of January."

"Kinsley replied: 'I did say that I received on that Sunday were more scraps and I returned them to the police. I asked, as insufficient.'"

JUROR INTERRUPTS.

Here Juror No. 4, Mr. Foster, interrupted:

"Did you know at that time that the writing of Molineux was among those submitted?"

"No, I did not. It was part of the ad-

dress of an envelope."

"Was Exhibit No. 34 brought to you?"

"Not at that time."

"To whom was the envelope that you then received, and which you now know to have been in the handwriting of the defendant, addressed?"

"To John D. Adams."

"Was there any enclosure in that envelope?"

After some meditation and stumbling Kinsley said there was not.

"I now ask the District Attorney," said Mr. Weeks, "to hand me Exhibit B, before the